

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

XAVIER IRIZARRY-SANCHEZ,

Plaintiff,

v.

CIVIL NO. 10-1088 (FAB)

WARDEN PEÑUELAS,
ATTORNEY GENERAL PUERTO RICO,

Defendants.

MEMORANDUM AND ORDER

BESOSA, District Judge.

A district court may refer a case to a magistrate judge for a report and recommendation. See 28 U.S.C. § 636(b)(1)(B); Fed.R.Civ.P. 72(b); Loc. Rule 72(b). Any party adversely affected by the report and recommendation may file written objections within fourteen days of being served with the magistrate judge's report. See 28 U.S.C. § 636(b)(1). A party that files a timely objection is entitled to a *de novo* determination of "those portions of the report or specified proposed findings or recommendations to which specific objection is made." Sylva v. Culebra Dive Shop, 389 F.Supp.2d 189, 191-92 (D.P.R. 2005) (citing United States v. Raddatz, 447 U.S. 667, 673 (1980)). Failure to comply with this rule precludes further review. See Davet v. Maccorone, 973 F.2d

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22, 30-31 (1st Cir. 1992). In conducting its review, the court is free to "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge."

28 U.S.C. § 636 (a)(b)(1). Templeman v. Chris Craft Corp., 770 F.2d 245, 247 (1st Cir. 1985); Alamo Rodriguez v. Pfizer Pharmaceuticals, Inc., 286 F. Supp. 2d 144, 146 (D.P.R. 2003).

Furthermore, the Court may accept those parts of the report and recommendation to which the parties do not object. See Hernandez-Mejias v. General Elec., 428 F. Supp. 2d 4, 6 (D.P.R. 2005) (citing Lacedra v. Donald W. Wyatt Detention Facility, 334 F. Supp. 2d 114, 125-126 (D.R.I. 2004)).

On March 15, 2011, the United States magistrate judge issued a Report and Recommendation in this case, recommending that plaintiff's motion for post-conviction relief from his conviction and sentence pursuant to 28 U.S.C. § 2254 be **DENIED**. (Docket No. 26.)

Plaintiff did not object to the Report and Recommendation within the time provided by the rules. The Court has made an independent examination of the entire record in this case and **ADOPTS** the magistrate judge's findings and recommendations as the opinion of the Court.

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Accordingly, defendants' motion to dismiss (Docket No. 18) is **GRANTED**. Plaintiff's motion for post-conviction relief pursuant to 28 U.S.C. § 2254 (Docket No. 4) is **DENIED**. This case is **DISMISSED WITH PREJUDICE**.

Judgment shall be entered accordingly.

IT IS SO ORDERED.

San Juan, Puerto Rico, April 6, 2011.

s/ Francisco A. Besosa
FRANCISCO A. BESOSA
UNITED STATES DISTRICT JUDGE